

SUBCHAPTER L—SPECIAL REGULATIONS

PART 777—RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES

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Subpart A—General Policy, Purpose and Definitions

§ 777.11 General policy.

It is the policy of the Postal Service to comply voluntarily with the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Pub. L. 91-646; 84 Stat. 1894), hereinafter referred to as the Act.

§ 777.12 Purpose.

The purpose of these regulations is to update policy and procedures for the Postal Service's voluntary compliance with the Act.

§ 777.13 Definitions.

(a) *The Act*. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Pub. L. 91-646; 84 Stat. 1894).

(b) *Business*. Any lawful activity, except a farm operation, that is:

(1) Conducted primarily for the purchase, sale, lease, and/or rental of personal and/or real property, and for the manufacturing, processing, and/or marketing of products, commodities, and/or any other personal property; or

(2) Conducted primarily for the sale of services to the public; or

(3) Solely for the purposes of reimbursing moving and related expenses, conducted primarily for outdoor advertising display purposes, when the display(s) must be moved as a result of the project; or

(4) Conducted by a nonprofit organization that has established its nonprofit status under applicable Federal or State law.

(c) *Small business*. A business having at least one but not more than 500 employees working at the location being acquired.

(d) *Comparable Replacement Dwelling*. A dwelling which is:

(1) Decent, safe, and sanitary.

(2) Functionally similar to the displacement dwelling with particular attention to the number of rooms and living space.

(3) In an area that is not subject to unreasonably adverse environmental conditions, is not generally less desirable than the location of the displacement dwelling with respect to public utilities and commercial and public facilities, and is reasonably accessible to the displaced person's place of employment.

(4) On a site that is typical in size for residential development with normal site improvements including customary landscaping. The site need not

include special improvements such as outbuildings, fences, swimming pools, and greenhouses.

(5) Currently available to the displaced person.

(6) Within the financial means of the displaced person.

(e) *Decent, Safe, and Sanitary Dwelling.* A dwelling which meets local housing and occupancy codes and the following standards, unless they are waived for good cause by the Postal Service. The dwelling must:

(1) Be structurally sound, weather-tight, and in good repair.

(2) Contain a safe electrical wiring system adequate for lighting and other electrical devices.

(3) Contain a heating system capable of sustaining a healthful temperature of approximately 70 degrees except in those areas where local climatic conditions do not require such a system.

(4) Be adequate in size with respect to the number of rooms and areas of living space needed to accommodate the displaced persons. There shall be a separate, well-lighted and ventilated bathroom that provides privacy to the user and contains a bathtub or shower stall, sink, and toilet, all in good working order and properly connected to appropriate sources of water and to a sewage drainage system. In the case of a housekeeping unit—as opposed to, for example, a room in a boarding house—there shall be a kitchen area that contains a fully usable sink, properly connected to potable hot and cold water and to a sewage draining system, and adequate space and utility service connections for a stove and a refrigerator.

(5) Contain unobstructed egress to safe, open space at ground level.

(6) For displaced persons who are handicapped, be free of any barriers which would preclude their reasonable ingress, egress, or use of the dwelling.

(f) *Displaced Person.* (1) Subject to the additional definitions, limitations and exceptions in paragraph (f)(2) of this section, the term “displaced person” is defined as follows. (“Displaced persons” are entitled to receive benefits only as specifically provided for elsewhere in these regulations.)

(i) A person who owns real property, and who is required to move or to move personal property from the real prop-

erty following Postal Service action to obtain title to, or a leasehold interest in, such real property by the exercise or the threat of the exercise of eminent domain.

(ii) A person who is a tenant and who is required to move or to move his or her personal property from real property:

(A) Following Postal Service action to obtain the tenant’s leasehold interest in such real property by the exercise or the threat of the exercise of eminent domain, or,

(B) Where the Postal Service acquires a fee interest in the property (including long-term leases of 50 years or more), as a result of a Postal Service notice of displacement or notice to vacate such real property, provided the tenant was lawfully in possession on the date title to such property transfers to the Postal Service. (The requirement that the tenant occupy such real property on the date title in such real property transfers to the Postal Service may be waived for good cause by the Postal Service.)

(C) Where such real property was used to construct a new building for the express purpose of leasing to the Postal Service under circumstances where such tenant would have been a “displaced person” hereunder had the Postal Service itself acquired the land and required the removal of the tenant to undertake construction of the building for Postal Service ownership.

(iii) Where the Postal Service acquires either a fee interest or a leasehold interest in the property, a person who is a residential tenant and is or will be required to move or to move his or her property from the real property, in order for the Postal Service to accomplish the project for which the property was acquired, provided such tenant occupies such real property on the date title in such real property transfers to the Postal Service or the date the Postal Service leases or contracts to lease such property, and further provided such tenant was lawfully in possession at the time of the initiation of negotiations. (The requirement that the tenant occupy such real property on the date title in such real

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property transfers to the Postal Service may be waived for good cause by the Postal Service.)

(2) The term “displaced person” covers only persons meeting the requirements in paragraph (f)(1) of this section. The term “displaced person” does not cover the following non-exclusive list of examples.

(i) An owner who voluntarily sells his or her real property to the Postal Service, or,

(ii) A tenant who voluntarily transfers his or her leasehold interest to the Postal Service without the exercise or the threat of the exercise of eminent domain, or,

(iii) A tenant who is not lawfully in possession at the times for which lawful possession is specified in paragraphs (f)(1)(ii)(B) and (f)(1)(iii) of this section. A tenant who was legally required by the lease or otherwise to have moved from the property at the times specified in such paragraphs shall not be considered to be lawfully in possession.

(iv) A person who, at the determination of the Postal Service, is not required to relocate permanently, or,

(v) A person who, after receiving a notice of displacement or notice to vacate by the Postal Service, is notified in writing that he or she will not be displaced. Such later notification shall not be issued if the person has already moved. If such latter notification is issued, the Postal Service shall reimburse the person for any reasonable expenses incurred to satisfy any binding contractual relocation obligations entered into after the effective date of the notice of displacement or the notice to vacate or,

(vi) A person who is required to temporarily vacate the premises in order to permit fumigation, repair, painting, or other maintenance or code of enforcement work or,

(vii) A tenant who is required to move from real property as a result of a notice from the Postal Service to vacate such real property where such notice to vacate is issued five years or more after the date of the acquisition of such real property. A tenant who is given a notice to vacate as a result of failure to comply with the terms of his/her lease with the Postal Service or failure to renew his/her lease under

prevailing market conditions is not considered to be a displaced person.

(viii) A mobile home occupant who owns the site on which the mobile home is located and who voluntarily sells the site to the Postal Service, regardless of whether such person owns or rents the mobile home.

(ix) A person whose property is acquired through a “friendly condemnation action” where price is not an issue.

(g) *Displacement Dwelling*. The dwelling acquired by the Postal Service from which a displaced person is required to move.

(h) *Dwelling*. The place of permanent or customary and usual residence of a person including a single family house; a single family unit in a two-family, multi-family, or multi-purpose property; a unit of a condominium or cooperative housing project; a non-house-keeping unit (i.e. room in a boarding house); a mobile home; or any other residential unit.

(i) *Family*. Two or more individuals who are related by blood, adoption, marriage, or legal guardianship who live together as a family unit. If the Postal Service considers that circumstances warrant, others who live together as a family unit may be treated as if they are a family for the purpose of determining assistance under these regulations.

(j) *Farm Operation*. Any activity conducted solely or primarily for the production of one or more types of agricultural products or commodities, including timber, for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator’s support.

(k) *Financial Means*. A comparable replacement dwelling is within the financial means of the displaced family or individual if the average monthly rental or housing cost (e.g., monthly mortgage payments, insurance for the dwelling unit, property taxes, and other reasonable recurring related expenses) which the displaced person will be required to pay does not exceed the greater of 25 percent of the monthly gross income of the displaced family or individual or the ratio of the present monthly rental or housing cost to the gross income of the displaced family or

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individual. (Supplemental payments made by public agencies are to be included in gross income for purposes of these comparisons.)

(l) *Initiation of Negotiations.* In the case where eminent domain is neither exercised nor threatened to be exercised, the initiation of negotiations is the initial written communication stating a price by the owner or the owner's representative to the Postal Service, or by the Postal Service to the owner or the owner's representative, regarding a proposed acquisition (by purchase or lease) or an interest in a specific piece of real property. In the case where eminent domain is either exercised or threatened to be exercised, the initiation of negotiations is the date the Postal Service makes a written offer of just compensation.

(m) *Notice of Displacement.* A notice given in writing by the Postal Service to a person that he or she will be displaced from his or her place of residence, business or farm, as a result of a facility action by the Postal Service. A notice of displacement may be combined with or in a notice to vacate.

(n) *Notice to Vacate.* A notice given in writing by the Postal Service to a person that he or she is to vacate postal owned property on or before a certain date. A notice to vacate may be combined with or in a notice of displacement.

(o) *Owner of Displacement Dwelling.* A person is considered to be an owner, if, at the initiation of negotiations, the person holds any of the following interests in real property acquired for a postal project:

(1) Fee title, a life estate, a 99-year lease, or a lease, including any options for extension, with at least 50 years to run from the date of acquisition; or

(2) An interest other than leasehold interest in a cooperative housing project which includes the right to occupy a dwelling; or

(3) A contract to purchase any of the interests or estates described in paragraph (o)(1) or (o)(2) of this section; or

(4) Any other interest, including a partial interest, which in the judgment of the Postal Service, warrants consideration as ownership.

(p) *Person.* Any individual, family, partnership, corporation, association, business or farm operation.

(q) *Personal Property.* Any tangible property, not considered part of the real property, for which payment has not been included in the acquisition cost.

(r) *Tenant.* A person who has the legal right to temporary use and occupancy of real property owned by another. In some cases, these regulations also use the term "tenant" to refer to a person who occupies real property owned by another but whose legal right was terminated due to a timely notice to vacate the real property used and occupied.

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§ 777.14 Certain indirect actions prohibited.

Postal employees shall take no indirect, coercive, or deceptive actions to cause persons to move from real property in an effort to avoid the circumstances under which such persons would be eligible to receive relocation benefits as displaced persons under these regulations. If a claimant demonstrates that such prohibited action caused him or her to move, he or she will be treated as a displaced person hereunder, if he or she otherwise meets the definition of a displaced person.

Subpart B—Uniform Relocation Assistance

§ 777.21 General procedures.

(a) *Planning Prior to Site Selection.* When acquisition of a site under consideration would likely involve displacement of a person eligible under § 777.13 for relocation assistance, the Postal Service representative shall prepare a relocation needs and availability analysis. The Postal Service representative shall include in the analysis a complete inventory of persons who may be displaced and specifically identify their needs.

(b) *Planning Subsequent to Site Selection.* Subsequent to site selection, the Postal Service must review the relocation needs and availability analysis